

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
APPELLATE SIDE

WRIT PETITION NO. 9599 OF 2004

Manoj Shankarlal Agarwal & Ors. ...Petitioners.
Vs.
D.L. Meena & Ors. ...Respondents.

....
Mr. C. G. Gavnekar for the Petitioners.
Mr. S.S. Pakale with Mr.Kiran Kandpile for the Respondents.
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CORAM : [DR.D.Y.CHANDRACHUD](#), J.

April 26, 2005.

P.C.:

An order of eviction was passed under the Public Premises (Eviction of Unauthorised Occupants) Act, 1971. The statutory appeal that was preferred under Section 9 has been dismissed on merits by the impugned order dated 20th October 2004 of the Additional District Judge, Thane.

2. There is no dispute that the licensee of the salt works – Nazareth Salt Works – had executed a lease agreement on 7th March 1984 with the Union of India for a period of 20 years. The term of the lease was from 1st July 1983 to 30th June 2003. The lessees violated the covenant contained in clause 12 of the Lease

Deed by transferring their interest under an agreement dated 30th April 1985 in favour of one Dinesh Kothari without the permission of the lessor. The Petitioners claim their interest through the said Kothari. The Additional District Judge, Thane, has in my view, correctly evaluated the questions which arose before him in appeal. The submission which has been urged before this Court is that the proceedings under the Public Premises (Eviction of Unauthorised Occupants) Act, 1971, were not maintainable since it cannot be said that the notice was issued in respect of public premises. There is no merit in the submission. Section 2(e)(1) defines "public premises" to mean inter alia any premises belonging to the Central Government. The predecessor in interest of the Petitioners had admittedly entered into a Lease Deed with the Union of India on 7th March 1984 and that in itself is sufficient recognition of the right, title and interest of the Union Government. The Petitioners are estopped from challenging the title of the Union of India. There was a breach of the condition of lease by a transfer in violation of clause 12 without the written consent of the lessor.

3. In the circumstances, there is no merit in the Petition which is accordingly rejected. On the oral request of Counsel for

the Petitioner, in order to enable the Petitioners to seek their remedies before the Supreme Court, there shall be a direction that the status quo shall be maintained for a period of four weeks from today.

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